IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

Crl.Rev.Pet.No. 185 of 2007()

CRA.157/2005 of SESSIONS COURT, THODUPUZHA
CC.609/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, DEVICOLAM

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REVN. PETITIONERAPPELLANT/ACCUSED:

HENTRY YESUDAS, S/O. JAMES
AGED 39, REGIONAL OFFICE
TATA TEA LTD., MUNNAR.

BY ADV. SRI.N.M.VARGHESE
SRI.ROY THOMAS

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

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1. P. SEKHAR, S/O. PINNAIAH
MUNNAR WORKSHOP, TATA TEA LTD., MUNNAR
PRESENTLY RESIDING AT TDTP SCHOOL ROAD
11/6 RAJIV NAGAR, ALANKULAM
THIRUNELVELI - 627851.

2. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. C.K. SURESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.R.P.No. 185 of 2007

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Dated this the 12th day of January, 2007

O R D E R

This revision petition is directed against a concurrent verdict of guilty, conviction and sentence in a prosecution under Section 138 of the N.I. Act.

2. The cheque is for an amount of Rs. 71,500/-. After indulgent modification of the sentence by the Appellate Court, the petitioner now faces a sentence of imprisonment till rising of court and to pay the actual cheque amount of Rs. 71,500/- as compensation and in default to undergo S.I. for a further period of two months.

3. The petitioner, it is submitted, is in custody now undergoing the default sentence consequent to his inability to raise the amount. The learned counsel for the petitioner in the course of the submissions before this court does not strain to assail the verdict of guilty and conviction on merits. He only prays that some time may be granted to the petitioner to raise the amount and discharge the liability. It is submitted that the petitioner's wife had filed an affidavit undertaking to pay part of the amount immediately. She

seeks some further time to pay the balance amount after release of the petitioner from custody.

4. In the facts and circumstances of this case, I am satisfied that the verdict of guilty, conviction and sentence do not warrant interference at all. The petitioner has been given sufficient time to pay the amount and to avoid the default sentence. In fact the Appellate judgment shows that the petitioner was directed to appear before the learned Magistrate on 6.6.06. Inspite of that, payment has not been made. All the same, the petitioner offers to pay the amount. I am satisfied that subject to appropriate safeguards and conditions the request can be accepted.

5. This revision petition is dismissed. It is directed that the petitioner shall have time till 28.2.07 to pay the entire balance amount and he shall be released from custody on condition that:

(a) he deposits an amount of Rs.25,000/- before the learned Magistrate straight away; and

(b) he executes a bond for Rs. 25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate undertaking to appear before the learned Magistrate on 28.2.07.

(R. BASANT)
Judge

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